IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.MC.No. 1789 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRRP.2273/2003 Dated 15/02/2007
CC.1161/1998 of JUDL.MAGISTRATE OF FIRST CLASS, VADAKARA

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PETITIONER:

PUTHUKUDI ABDURAHIMAN @ MUHAMMED
ABDURAHIMAN. S/O.ABOOBACKER HAJEE, AGED 47 YEARS,
PUTHUKUDY HOUSE, KIZHAKKOTH AMSOM DESOM,
KOZHIKODE TALUK AND DISTRICT.

BY ADV. SRI.T.J.THOMAS (ALUVA)

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1789 of 2007

Dated this the 4th day of June, 2007

ORDER

Petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. He now faces the sentence of imprisonment till rising of court. There is also a direction to pay an amount of Rs.50,000/- to the complainant, less the amount already deposited and in default to undergo simple imprisonment for a period of 3 months. He was directed to appear before the learned Magistrate on 16.03.2007 to receive the sentence. He did not appear before the learned Magistrate on 16.03.2007. He has come to this Court with this petition on 31.05.2007 with a prayer that he may be given some further time to pay the amount and avoid the default sentence.

2. Time to appear before the learned Magistrate has already expired. I do not find any merit in the prayer for further extension of time. It is for the petitioner now to pay the amount directly to the complainant and report that fact to the learned Magistrate. In the alternative, he can deposit the entire amount outstanding before the learned Magistrate. If the petitioner pays or deposits that amount before the learned Magistrate, there cannot, needless to say, be any question of executing the default sentence against the petitioner as

held in the decision reported in **Girish v. Muthoot Capital Service (P) Ltd.** [2007(1) KLT 16)]. The petitioner must now appear before the learned Magistrate and either deposit the amount or report that such payment has already been made. No further direction appears to be necessary.

3. This Crl.M.C is, in these circumstances, dismissed with the above observations.

(R.BASANT, JUDGE)

rtr/-